

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman; and
Robert G. Taub

Competitive Product Prices
Global Plus 2C (MC2012-5)
Negotiated Service Agreement

Docket No. CP2014-43

ORDER APPROVING ADDITIONAL GLOBAL PLUS 2C
NEGOTIATED SERVICE AGREEMENT

(Issued April 25, 2014)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Plus 2C agreement (Agreement) within the Global Plus 2C product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 2C Contract Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, April 14, 2014 (Notice).

II. BACKGROUND

The Postal Service filed its Notice on April 14, 2014. The Agreement is intended to take effect May 1, 2014. Notice at 3. It is set to expire March 31, 2015. *Id.* Attachment 1 at 9.

In Order No. 2052, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.²

III. COMMENTS

The Public Representative filed comments on April 23, 2014.³ No other comments were received.

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative is unable to provide comment on whether the instant contract meets the requirements of 39 U.S.C. § 3633. PR Comments at 3. The Public Representative notes that in Order No. 1983 the Commission approved a new methodology for "distributing Global Direct Entry Outbound (GDEO) Admail settlement costs to NSAs in the Global Plus products reported in the [International Cost and Revenue Analysis] ICRA."⁴ The Public Representative states that "it is not apparent whether the Postal Service factored in the new methodological change to its financial model to accommodate costs that cannot be modeled or increased [by] the contingency factor." PR Comments at 3.

² Notice and Order Concerning Additional Global Plus 2C Negotiated Service Agreement, April 15, 2014 (Order No. 2052).

³ Public Representative Comments on Postal Service Notice of Filing Functionally Equivalent Global Plus 2C Contract Negotiated Service Agreement, April 23, 2014 (PR Comments). The Public Representative also filed a motion for late acceptance of her comments. Motion of the Public Representative for Late Acceptance of Comments, April 23, 2014 (Motion). The Motion is granted.

⁴ Docket No. RM2013-6, Order on Analytical Principles Used in Periodic Reporting (Proposals One Through Five), February 4, 2014, at 17-18 (Order No. 1983).

The Public Representative also discusses several issues regarding price changes during the contract pursuant to postage update and contingency clauses. The Public Representative notes that the Postal Service has removed previous language on contingency prices from the baseline agreements that notes Commission approval is necessary and replaced it with “[t]hese prices shall be valid until such time as they are revised at the sole discretion of the USPS.” *Id.* at 3-4 (footnote omitted). The Public Representative concludes that this change in contractual language “would seem to make the contract in this proceeding not legally functionally equivalent.” *Id.* at 6.

IV. COMMISSION ANALYSIS

The Commission’s responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 1135, the Commission added the Global Plus 2C product to the competitive product list and designated two agreements as baseline agreements for assessing the functional equivalence of agreements proposed for inclusion within the Global Plus 2C product.⁵

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreements, and requests that the Agreement be included within the Global Plus 2C product. Notice at 3. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the Global Plus 2C product. *Id.* The Postal Service also asserts that the Agreement and the baseline agreements possess similar cost and market characteristics and the same functional terms, but states that prices may differ. *Id.* at 4-5. The Postal Service identifies numerous differences between the Agreement and the baseline agreements, but

⁵ Docket Nos. MC2012-5, CP2012-10, and CP2012-11, Order Adding Global Plus 2C to the Competitive Product List and Approving Functionally Equivalent Global Plus 2C Agreements, January 13, 2012, at 6, 7 (Order No. 1135).

asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁶

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreements; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. While the Public Representative does indicate differences between certain price change provisions in the Agreement and the baseline agreements, the Commission concludes that the Agreement is substantially similar to the baseline agreements and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the Global Plus 2C product. Should the Postal Service change prices during the term of the contract, the Commission expects the Postal Service will submit such changes for Commission approval.

Cost considerations. The Commission reviews competitive products to ensure they meet the applicable requirements of 39 U.S.C. § 3633 and 39 C.F.R. §§ 3015.5 and 3015.7. The Postal Service asserts that its filing demonstrates that the Agreement complies with the requirements of 39 U.S.C. § 3633. Notice at 2. The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. The Public Representative comments that the Postal Service has not incorporated a recent change in the methodology used in the ICRA to distribute historical costs to contracts. The methodology used to estimate the prospective cost coverage for this contract is not

⁶ Differences include, among others, the non-inclusion of Global Bulk Economy service, revisions to existing articles, and the inclusion of new articles. *Id.* at 5-7.

mathematically analogous⁷ to the methodology that will be used to estimate the historical cost coverage of Global Plus contracts for the ICRA. For the prospective review, the Postal Service utilizes detailed information that is not currently available for historical analysis, as the Commission noted in Order No. 1983. Order No. 1983 at 20. The Commission finds that the Postal Service has used an appropriate methodology to estimate prospective cost coverage for this contract because it has included detailed information that improves the accuracy of the analysis. Therefore, based on its review, the Commission finds that the Agreement should cover its attributable costs. 39 U.S.C. § 3633(a)(2).

Additionally, it finds that the Agreement should not result in competitive products being subsidized by market dominant products, satisfying the requirements of 39 U.S.C. § 3633(a)(1). It also finds the Agreement should have a positive effect on the contribution of competitive products to institutional costs, in furtherance of 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with the section 3633(a) provisions applicable to rates for competitive products.

Other considerations. The Agreement is intended to go into effect on May 1, 2014. Notice at 3. The Agreement is set to expire on March 31, 2015. *Id.* Attachment 1 at 9.

Upon termination of the Agreement by either party, the Postal Service shall promptly inform the Commission of this development and the date of termination. In addition, within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues associated with the Agreement, including any penalties paid, disaggregated by weight and country group.

⁷ In Order No. 1983, the Commission approved a change in the methodology for distributing settlement charges that have been incurred in the previous year. The new methodology utilizes revenue shares as a proxy for actual settlement charges for the ICRA distribution. The methodology for prospectively estimating the settlement charges that will be incurred for an individual contract utilizes the actual settlement charge by rate cell. Therefore the settlement charges are accurate.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2014-43 is included within the Global Plus 2C (MC2012-5) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective May 1, 2014.
2. The Postal Service shall promptly notify the Commission of the date of termination if the Agreement is terminated early by either party.
3. Within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues, including any penalties paid, disaggregated by weight and country group.

By the Commission.

Shoshana M. Grove
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

PART B—COMPETITIVE PRODUCT LIST

2500 Negotiated Service Agreements

2510 Outbound International

2510.6 Global Plus Contracts

2510.6.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Plus 2C
Baseline Reference
Docket Nos. MC2012-5, CP2012-10, and CP2012-11
PRC Order No. 1135, January 13, 2012
Included Agreements

~~CP2013-42CP2014-43, expires March 31, 2015 the day prior to the date in January, 2014, when Canada Post Corporation institutes price changes for its domestic Lettermail, Incentive Lettermail, Admail, and/or Publications Mail products. Should Canada Post Corporation not change prices for its domestic Lettermail, Incentive Lettermail, Admail, and/or Publications Mail during the month of January, 2014, the Agreement shall terminate on April 30, 2014.~~
